

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KURT TAYLOR, #216 804

*

Plaintiff,

*

v.

*

2:06-CV-135-WKW
(WO)

PAUL WHALEY, *et al.*,

*

Defendants.

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ORDER ON MOTION

On February 27, 2006 Plaintiff filed a pleading which the court construes as a Motion for Reconsideration of the court's February 16, 2006 order and Recommendation that Plaintiff be denied leave to proceed *in forma pauperis* and that his complaint be dismissed under the provisions of 28 U.S.C. § 1915(g). In support of his motion, Plaintiff maintains that the court based its conclusion, in part, that Plaintiff was in violation of the "three strikes" rule under § 1915(g) by referring to a case Plaintiff previously filed in this court but which was still pending on the Recommendation of the Magistrate Judge that the case be dismissed under 28 U.S.C. § 1915(e)(2)(B). Plaintiff argues that because the Recommendation in *Taylor v. Rogers, et al.*, Civil Action No. 2:05CV-1209-WKW (M.D. Ala. 2006), had not been adopted by the district court when the Recommendation in this case was filed, the undersigned erred in relying on it when applying § 1915(g) to the instant complaint.

As noted, the court entered a Recommendation on February 16, 2006 that the instant complaint be dismissed under 28 U.S.C. § 1915(g). An order adopting the Recommendation

of the Magistrate Judge entered in Civil Action No. 2:05-CV-1209-WKE was filed on February 21, 2006. (*See* Doc. Nos. 6-7.) In light of the foregoing, the court concludes that the basis for Plaintiff's reconsideration request has become moot and the motion shall, therefore, be denied.

Accordingly, it is ORDERED that Plaintiff's Motion for Reconsideration (Doc. No. 4) be and is hereby DENIED as moot.

DONE, this 2nd day of March, 2006.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE